

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 34471

STATE OF IDAHO,)	2008 Unpublished Opinion No. 712
)	
Plaintiff-Respondent,)	Filed: November 25, 2008
)	
v.)	Stephen W. Kenyon, Clerk
)	
ROBERT LYNN JOHNSON,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Sixth Judicial District, State of Idaho, Franklin County. Hon. Don L. Harding, District Judge.

Judgment of conviction and unified sentence of five years, with three years determinate, for possession of a controlled substance, affirmed.

Molly J. Huskey, State Appellate Public Defender; Jason C. Pintler, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

PER CURIAM

Robert Lynn Johnson was charged with two counts of possession of a controlled substance, methamphetamine, and pursuant to a plea agreement, pled guilty to one count of possession of methamphetamine, I.C. § 37-2732(c)(1), and the state dismissed the second count. Johnson was sentenced to a unified term of five years, with three years determinate and the district court retained jurisdiction. After Johnson completed his rider, the district court suspended his sentence and placed him on probation for six years. Johnson is currently on probation, but he appeals from his judgment of conviction and sentence, contending that the district court abused its discretion by imposing an excessive sentence.

Where a sentence is within the statutory limits, it will not be disturbed on appeal absent an abuse of the sentencing court's discretion. *State v. Hedger*, 115 Idaho 598, 604, 768 P.2d 1331, 1337 (1989). We will not conclude on review that the sentencing court abused its

discretion unless the sentence is unreasonable under the facts of the case. *State v. Brown*, 121 Idaho 385, 393, 825 P.2d 482, 490 (1992). In evaluating the reasonableness of a sentence, we consider the nature of the offense and the character of the offender, applying our well-established standards of review. See *State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 170 P.3d 387 (2007).

Applying the foregoing standards and having reviewed the record, we conclude that the district court did not abuse its discretion by imposing the sentence. Accordingly, Johnson's judgment of conviction and sentence are affirmed.